

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:14-cv-67-FDW
(3:07-cr-61-FDW-11)**

MARTRAI DAVIS,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

ORDER

THIS MATTER is before the Court on its own motion following the filing of Respondent's Motion to Dismiss on August 27, 2014, (Doc. No. 4). Before ruling on the motion to dismiss, the Government shall, within ten days, submit to this Court a brief memorandum addressing the issue of whether, in this action, Petitioner's conviction for accessory after the fact to robbery with a dangerous weapon under North Carolina law constitutes a "crime of violence" for purposes of being designated as a career offender under U.S.S.G. § 4B1.1.¹ The Government shall also address whether Petitioner's motion to vacate is time-barred (which it appears to be), and, if so, whether the Government waives the statute of limitations.

Signed: October 9, 2014



Frank D. Whitney
Chief United States District Judge



¹ The Court suggested in a footnote in its order for the Government to respond that the issue was not clear, but the Government did not address it in the motion to dismiss.